

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARIA CONCEPCION BERMEJO
SANANGO, on her own behalf and on behalf of
others similarly situated,

Plaintiff,

-against-

RUBY NAILS TARRYTOWN, INC. d/b/a
RUBY NAIL, et al.,

Defendants.

ORDER

20-CV-08245 (PMH)

PHILIP M. HALPERN, United States District Judge:

Plaintiff has two applications pending presently before this Court: (1) an application for default judgment against all Defendants, made by Order to Show Cause; and (2) an associated motion for attorneys’ fees and costs. (*See* Doc. 88; Doc. 91). These applications are DENIED without prejudice to renew for reasons set forth below.

First, under Rule 4(B) and Attachment A of this Court’s Individual Practices, an application for default judgment must be supported by “an affidavit from a party with personal knowledge of damages . . . attaching exhibits as necessary to support the basis therefor” Plaintiff’s application lacks such an affidavit, instead attempting to provide this information by way of an affidavit signed by counsel. (*See* Doc. 85).

Second, the docket entries suggest that only the two-page Order to Show Cause—and not its supporting papers—were ever served on Defendants. (*See* Doc. 84-Doc. 94).

Third, to the extent that Plaintiff seeks attorneys’ fees and costs in conjunction with the application for a default judgment, Rule 4(B) and Attachment A of this Court’s Individual Practices provide that such application be made in the Order to Show Cause seeking default—not by separate motion.

Plaintiff is directed to serve a copy of this Order on each Defendant and file proof of service on the docket by 5:00 p.m. on August 11, 2022.

The Clerk of the Court is respectfully directed to terminate the motion sequence pending at Doc. 88.

SO ORDERED:

Dated: White Plains, New York
August 9, 2022



PHILIP M. HALPERN
United States District Judge